

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
YEVGENIY TIMOSHENKO,

Plaintiff,

-against-

FRANK GU,

Defendant.
-----X

Index No. 17-cv-02268-KBF

DECLARATION OF FRANK GU

FRANK GU hereby declares, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am the individual named as the defendant in this action. Except where otherwise indicated, I have personal knowledge of the facts set forth in this Declaration and am competent to testify to those facts if called as a witness.

2. I submit this Declaration in support of the motion to dismiss the Complaint, dated March 29, 2017 (the "Complaint"), of plaintiff Yevgeniy Timoshenko ("Plaintiff" or "Timoshenko") pursuant to Fed. R. Civ. P. 12(b)(6) and 12(b)(1).

3. Attached hereto as Exhibit A is a true and correct copy of the December 17, 2010 Google instant messenger conversation between Timoshenko and myself. An undated copy of this conversation was filed with the Complaint as Exhibit B [Docket No. 1-2].

4. Attached hereto as Exhibit B is a true and correct copy of the February 2, 2012 Google instant messenger conversation between Timoshenko and myself. An undated copy of this conversation was filed with the Complaint as Exhibit F [Docket No. 1-6].

I declare under penalty of perjury that the foregoing is true and correct.

Dated: May 3, 2017



Frank Gu